

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

September 15, 2006

Agenda ID #6001  
Ratesetting

TO: PARTIES OF RECORD IN RULEMAKING 04-01-025

This is the proposed decision of Administrative Law Judge (ALJ) Wong. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's "Rules of Practice and Procedure," accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 14.3 opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic copies of comments should be sent to ALJ Wong at [JSW@cpuc.ca.gov](mailto:JSW@cpuc.ca.gov). All parties must serve hard copies on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail or other expeditious methods of service. The current service list for this proceeding is available on the Commission's web site, <http://www.cpuc.ca.gov>.

/s/ Michelle Cooke for  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG;jt2  
Attachment



Decision **PROPOSED DECISION OF ALJ WONG (Mailed 9/15/2006)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish  
Policies and Rules to Ensure Reliable, Long-Term  
Supplies of Natural Gas to California.

Rulemaking 04-01-025  
(Filed January 22, 2004)

**OPINION REGARDING PACIFIC GAS AND ELECTRIC COMPANY'S  
REQUEST TO MODIFY DECISION 04-09-022****Summary**

Pacific Gas and Electric Company (PG&E) proposed in its incremental core gas storage proceeding, Application (A.) 05-03-001, to modify the contract pre-approval process that was approved in Decision (D.) 04-09-022. In D.06-07-010, the Commission's decision regarding A.05-03-001, the Commission declined to modify D.04-09-022 because that decision was issued in Rulemaking (R.) 04-01-025 rather than in A.05-03-001. D.06-07-010 ordered that a ruling issue in this rulemaking to solicit comments on whether any parties to this rulemaking object to PG&E's request to modify the pre-approval process adopted in D.04-09-022.

A ruling was issued on July 25, 2006 notifying the parties in R.04-01-025 of PG&E's request to modify the contract pre-approval process adopted in D.04-09-022. The ruling provided interested parties with an opportunity to file responses and replies to PG&E's request. A response to the ruling was filed by Wild Goose Storage LLC (Wild Goose) on August 14, 2006, and a reply was filed by PG&E on August 18, 2006.

Today's decision grants PG&E's request to modify D.04-09-022 as set forth in this decision.

**Background**

On March 2, 2005, PG&E filed A.05-03-001 concerning the process for acquiring incremental core gas storage, and for the adoption of a core reliability planning standard. As part of that application, PG&E proposed that the Commission modify D.04-09-022, as it applies to PG&E, to allow the pre-approval process to apply to gas storage contracts of less than three years and which are acquired by PG&E to meet the core reliability standard that was proposed by PG&E and adopted in D.06-07-010. If modified, PG&E's gas storage contracts which meet these criteria could be approved using the pre-approval process described at Pages 25 to 26 of D.04-09-022.

The contract pre-approval process adopted in D.04-09-022 currently provides that interstate pipeline capacity contracts with a contract length limit of three years and a capacity amount limit of 100 million cubic feet per day (MMcfd) for PG&E and Southern California Gas Company (SoCalGas), and 20 MMcfd for San Diego Gas & Electric Company (SDG&E), may be approved by submitting a written request describing the contract which meets the pre-approval criteria to the Director of the Energy Division for an expedited approval or disapproval.

**Position of the Parties**

In its comments, Wild Goose contends that Finding of Fact 29 and Conclusion of Law 3 in D.04-09-022 already included storage capacity contracts in the pre-approval process, and that the need to modify D.04-09-022 is unclear. In addition, the partial settlement adopted in D.06-07-010 specifically incorporated the contract pre-approval process of D.04-09-022. If the

Commission believes that modifications to D.04-09-022 are needed to make this clear, Wild Goose supports the changes. Wild Goose asserts that allowing the storage capacity contracts to be approved using the expedited procedures provided for in D.04-09-022 will minimize the cost at which independent storage providers can provide storage services to the core.

PG&E's reply supports an expeditious modification of D.04-09-022 to include incremental core storage contracts as part of the contract pre-approval process approved in D.04-09-022.

### **Discussion**

In A.05-03-001, PG&E requested that the Commission modify D.04-09-022, as it applies to PG&E, to allow the contract pre-approval process to apply to storage contracts of less than three years duration and which are acquired to meet the 1-day-in-10-year peak day planning standard as adopted in D.06-07-010. Although we declined to modify D.04-09-022 in D.06-07-010 because D.04-09-022 was issued in R.04-01-025 rather than in A.05-03-001, we agreed in D.06-07-010 that modifying the pre-approval process in D.04-09-022 "to include storage contracts of less than three years will provide storage providers with more flexibility in pursuing storage opportunities." (D.06-07-010, p. 28.)

As pointed out by Wild Goose, there are several references in D.04-09-022 that storage capacity contracts should have been included as part of the contract pre-approval process. These references appear in Finding of Fact 29, Conclusion of Law 3, Section 6.3, and Section 6.11.1.<sup>1</sup> However, in Section 6.7 of D.04-09-022,

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<sup>1</sup> The references in Finding of Fact 29 and Conclusion of Law 3 appear to refer to the other "contract approval processes" that we adopted in D.04-09-022. These other contract approval processes include the expedited capacity advice letter process, the

*Footnote continued on next page*

which discussed the pre-approved capacity range procedure, we adopted a pre-approval process for interstate pipeline capacity contracts with a contract length of less than three years and capacity amount limits of 100 MMcfd for PG&E and SoCalGas, and 20 MMcfd for SDG&E. (D.04-09-022, p. 25.) The discussion in Section 6.7 regarding the pre-approval process did not include storage contracts, even though PG&E's proposed pre-approved capacity range would have included storage capacity contracts with a term of three years or less, and storage capacity contracts with a term of more than three years and quantities less than or equal to 3 million decatherms of storage. (See D.04-09-022, § 6.3, p. 17.)

Wild Goose also notes that the partial settlement adopted in D.06-07-010 specifically referenced that the storage contracts accepted by PG&E "will be presented to the Commission for approval pursuant to the pre-approval process for pipeline capacity set out in Decision 04-09-022." (See Ex. 20, p. 4, A.05-03-001, emphasis added; D.06-07-010, pp. 22-27.) Since we adopted the partial settlement in D.06-07-010, including the manner in which the storage contracts are to be presented to the Commission for approval, the pre-approval process adopted in D.04-09-022 should be modified accordingly.

In order to make D.04-09-022 consistent with D.06-07-010, and to clarify the contract pre-approval process that was adopted in D.04-09-022, and to provide storage providers with more flexibility in pursuing storage opportunities, PG&E's request to modify D.04-09-022 should be granted.

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regular advice letter process, and the filing of an application. (See D.04-09-022, §§ 6.8, 6.9, and 6.11.1, pp. 26-28, 35-36.)

D.04-09-022 should be modified as follows. The fourth paragraph of Section 6.7 of D.04-09-022 should be replaced with the following paragraph:

“We recognize that there may be interstate pipeline capacity opportunities and storage contracts that have turn-around times that cannot be accommodated through the proposed 21 day expedited advice letter process. Since there may be economic benefits to these kinds of transactions, there should be an opportunity to consider them for the core portfolio. We also recognize that there is a disincentive for utilities to make such transactions with no pre-approval, since they may then be subject to reasonableness review and potential disallowance. Therefore, we will limit pre-approval for interstate pipeline capacity contracts, and storage contracts for PG&E only, under the pre-approved capacity range or authorized capacity commitment to only those transactions that cannot be accommodated under the time limits of the proposed expedited advice letter process, with certain additional conditions.”

The second paragraph of Section 6.11.1 of D.04-09-022 should be replaced by the following:

“Although they are apparently not contemplating any changes to core storage reservations at this time, under the SoCalGas and SDG&E proposal, such storage changes would not be subject to the proposed approval processes. Under PG&E’s proposal, all incremental changes to storage commitments would be included in the approval processes. Since all parties agree that pipeline capacity and storage needs cannot be determined in isolation, PG&E’s proposal is preferable. It provides more assurance that incremental storage commitments and contracts are reasonable and have been fully considered in the context of incremental pipeline capacity. We will therefore adopt this aspect of PG&E’s proposal for all three utilities. Except as provided for in section 6.7, any contemplated changes to core storage shall be included as part of the approval process. Thus, proposed changes to core storage may be addressed through the standard advice letter procedure.”

**Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 14.2(a) of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_.

**Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner and John S. Wong is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. PG&E proposed in A.05-03-001 to modify the contract pre-approval process that was approved in D.04-09-022.
2. The Commission declined to modify D.04-09-022 in D.06-07-010, and ordered that a ruling issue in R.04-01-025 notifying the parties of PG&E's request to modify D.04-09-022.
3. PG&E requests that the pre-approval process in D.04-09-022 be modified, as it applies to PG&E, to include gas storage contracts of less than three years and which are acquired by PG&E to meet the core reliability standard adopted in D.06-07-010.
4. The contract pre-approval process adopted in D.04-09-022 currently provides that interstate pipeline capacity contracts with a contract length limit of three years and a capacity amount limit of 100 MMcfd for PG&E and SoCalGas, and 20 MMcfd for SDG&E, may use the pre-approval process.

**Conclusions of Law**

1. In order to make D.04-09-022 consistent with D.06-07-010, and to clarify the intent of the contract pre-approval process adopted in D.04-09-022, and to



provide storage providers with more flexibility in pursuing storage opportunities, PG&E's request to modify D.04-09-022 should be granted.

2. D.04-09-022 should be modified by replacing the fourth paragraph of Section 6.7 and the second paragraph of Section 6.11.1 of D.04-09-022 with the replacement paragraphs as set forth in this decision.

## **O R D E R**

**IT IS ORDERED** that:

1. The request of Pacific Gas and Electric Company (PG&E) to modify Decision (D.) 04-09-022 is granted as set forth below.

2. The fourth paragraph of Section 6.7 of D.04-09-022 shall be modified by replacing it in its entirety with the following paragraph:

"We recognize that there may be interstate pipeline capacity opportunities and storage contracts that have turn-around times that cannot be accommodated through the proposed 21 day expedited advice letter process. Since there may be economic benefits to these kinds of transactions, there should be an opportunity to consider them for the core portfolio. We also recognize that there is a disincentive for utilities to make such transactions with no pre-approval, since they may then be subject to reasonableness review and potential disallowance. Therefore, we will limit pre-approval for interstate pipeline capacity contracts, and storage contracts for PG&E only, under the pre-approved capacity range or authorized capacity commitment to only those transactions that cannot be accommodated under the time limits of the proposed expedited advice letter process, with certain additional conditions."

3. The second paragraph of Section 6.11.1 of D.04-09-022 shall be modified by replacing it in its entirety with the following paragraph:

"Although they are apparently not contemplating any changes to core storage reservations at this time, under the SoCalGas and SDG&E proposal, such storage changes would not be subject to the

proposed approval processes. Under PG&E's proposal, all incremental changes to storage commitments would be included in the approval processes. Since all parties agree that pipeline capacity and storage needs cannot be determined in isolation, PG&E's proposal is preferable. It provides more assurance that incremental storage commitments and contracts are reasonable and have been fully considered in the context of incremental pipeline capacity. We will therefore adopt this aspect of PG&E's proposal for all three utilities. Except as provided for in section 6.7, any contemplated changes to core storage shall be included as part of the approval process. Thus, proposed changes to core storage may be addressed through the standard advice letter procedure."

4. Rulemaking 04-01-025 is closed.

This order is effective immediately.

Dated \_\_\_\_\_, at Fresno, California.

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is correct as of today's date.

Dated September 15, 2006, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.